IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8259 OF 2005

Shri. Swaroopchand
Agarwal & Anr. .. . .. Petitioner.

vs.

Shankar Swaroopchand
Agarwal & Anr. .. Respondents.

Mr. M.M. Vashi for petitioner.
Mr. Harakhchand K. Gada for respondents.

CORAM : S.U. KAMDAR, J.
DATE : 6th December, 2005.

P.C.:

. The present petition challenges the order dated 6.10.2005 passed by the City Civil Court at Bombay. By the said order, the application for carrying out an amendment in the suit by including the office premises as an additional assets and claiming right therein has been rejected on the ground that it is a separate cause of action. In my opinion, the order passed by the trial Judge is erroneous and obviously against the principal of barring multiplicity of proceedings. The Apex Court

in the case of Sampath Kumar vs. Ayyakannu and Anr. reported in (2002) 7 SCC 559 has held that the intention of the Court is to avoid multiplicity of proceedings. In that light of the matter the order passed herein is unsustainable in law. The order dated 6.10.2005 is quashed and set aside and the Chamber Summons No. 163 of 2005 is allowed. The amendment is granted. The plaintiff is directed to carry out the amendment within two weeks from today. It is clarified that all issues on merits are kept open including the question on merits about the right of the plaintiff to challenge the said office premises being not a part of joint property. Petition disposed of accordingly. No order as to costs.